

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:22-cv-21233-KMM

BRYAN SEVARES,

Plaintiff,

v.

AMERICAN PIPELINE CONSTRUCTION, LLC
and ANDRES LUNA,

Defendants.

ORDER

THIS CAUSE is before the Court upon Plaintiff Bryan Sevares's Motion to Compel Fact Information Sheets (ECF No. 34). No response has been filed and the time to do so has passed. The Motion was referred to the undersigned by the Honorable K. Michael Moore, United States District Judge, pursuant to 28 U.S.C. § 636 and the Magistrate Judge Rules of the Local Rules of the Southern District of Florida, to take all necessary and proper action as required by law with respect to the Motion. (ECF No. 35). Having considered the Motion, the record as a whole, and being otherwise fully advised, the Motion to Compel Fact Information Sheets is **GRANTED** as set forth below.¹

I. BACKGROUND

This is an action brought, in part, under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.* Plaintiff Bryan Sevares commenced this action against Defendants American Pipeline Construction, LLC and Andres Luna in this Court on April 20, 2022 by filing the

¹ Plaintiff Sevares's Motion for an Award of Attorneys' Fees and Costs (ECF No. 34) will be taken up by separate Report and Recommendations.

Complaint (ECF No. 1). On August 15, 2022, Plaintiff filed the operative Amended Complaint (ECF No. 11), asserting claims for unpaid minimum wages under the FLSA, and for breach of contract and for unjust enrichment against Defendant American Pipeline Construction, LLC, arising under the common law.

Defendant American Pipeline Construction, LLC was served but failed to appear or answer the Amended Complaint. On November 11, 2022, Plaintiff filed a Motion for Entry of Final Judgment, which was referred to United States Magistrate Judge Melissa Damian who issued a Report and Recommendations. (ECF Nos. 27, 29, 31). On May 2, 2023, the District Court adopted Judge Damian's Report and Recommendation and granted Plaintiff's Motion for Final Default Judgment. (ECF No. 33).

Now, in his Motion to Compel Fact Information Sheet and pursuant to Federal Rule of Civil Procedure 69(a)(2), Plaintiff seeks an order compelling Defendant American Pipeline Construction, LLC to complete and hand-deliver or fax to Plaintiff's counsel Florida Form 1.977 within 30 days.

II. DISCUSSION

Federal Rule of Civil Procedure 69(a)(2) provides that “[i]n aid of the judgment or execution, the judgment creditor or a successor in interest whose interest appears of record may obtain discovery from any person—including the judgment debtor—as provided in these rules or by the procedure of the state where the court is located.” Fed. R. Civ. P. 69(a)(2). “Under Rule 69, the Court looks both to the Federal Rules of Civil Procedure and the Florida Rules of Civil Procedure.” *Pronman v. Styles*, No. 12-80674-CIV, 2016 WL 4618087, at *2 (S.D. Fla. Aug. 19, 2016). The Florida procedure is set forth in Florida Rule of Civil Procedure 1.560, which provides, in pertinent part:

In addition to any other discovery available to a judgment creditor under this rule, the court, at the request of the judgment creditor, shall order the judgment debtor or debtors to complete form 1.977, including all required attachments, within 45 days of the order or such other reasonable time as determined by the court. Failure to obey the order may be considered contempt of court.

Fla. R. Civ. P. 1.560(b).

While Plaintiff's Motion references fact information sheets attached as Exhibits "B" and "C" to that Motion, no fact information sheets have been filed. Nonetheless, the Court has not been presented with any reason why Defendant should not be compelled to complete a fact information sheet in accordance with Florida Rule of Civil Procedure 1.560(b). Accordingly, and without opposition, Plaintiff's request that Defendant be ordered to complete form 1.977, the fact information sheet utilized by the Florida courts, is granted.

III. CONCLUSION

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED** that

(1) Plaintiff Bryan Sevares's Motion to Compel Fact Information Sheets (ECF No. 34) is **GRANTED**;

(2) Defendant American Pipeline Construction, LLC **SHALL** complete under oath Form 1.977 of the Florida Rules of Civil Procedure, including all required attachments, and serve it on Plaintiff's counsel within **THIRTY (30) DAYS** of receiving service of this Order.

DONE AND ORDERED in Chambers at Miami, Florida, on this 6th day of July, 2023.



LAUREN F. LOUIS
UNITED STATES MAGISTRATE JUDGE

cc: Honorable K. Michael Moore
Counsel of record